

# SUMMARY MINUTES OF THE SAINT PAUL CITY COUNCIL Wednesday, August 1, 2007 - 3:30 p.m.

# CITY COUNCIL CHAMBERS, 3RD FLOOR City Hall and Court House 15 West Kellogg Boulevard

The meeting was called to order at 3:30 p.m. by Council President Lantry.

Present – 6 – Bostrom, Harris, Helgen, Lantry, Montgomery, Thune

Absent -1 – Benanav (excused)

#### **CONSENT AGENDA (Items 1 - 26)**

NOTE: ALL ITEMS LISTED UNDER CONSENT AGENDA WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED BY A COUNCILMEMBER, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

Councilmember Montgomery requested Item 6 be removed for separate discussion. Council President Lantry removed Item 15 for separate discussion. Councilmember Thune moved approval of the Consent Agenda as amended. Adopted as amended Yeas - 6 Nays - 0

#### COMMUNICATIONS AND ADMINISTRATIVE ORDERS

- 1. Claims of Brian P. Clark, Charmaine Green, Douglas K. Jones, and Donald Mammenga. On file with the City Clerk
- 2. Letters from the Department of Safety and Inspections/Code Enforcement declaring 359 Hyacinth Avenue East, 1237 Jackson Street, 333 Maryland Avenue West, 1781Mechanic Avenue, 448 Page Street East, 460 Page Street East, 947 Sylvan Street, and 81 Western Avenue South as nuisance properties. (For notification purposes only; public hearings will be held at a later date if necessary.)

## **FOR ACTION**

3. Approval of minutes of June 20, 2007. Adopted Yeas – 6 Nays – 0 4. Resolution – 07-652 – Approving the Memorandum of Agreement between the City and Sprinkler-Fitters, Local 417. (Laid over from July 25 for adoption)

Adopted Yeas – 6 Nays – 0

- 5. Resolution 07-653 Approving the Memorandum of Agreement between the City and AFSCME District Council #5 Local 2508, Clerical employees, regarding on-call procedures and compensation. (Laid over from July 25 for adoption)

  Adopted Yeas 6 Nays 0
- 6. Resolution 07-672 Declaring Sunday, August 4, 2007 to be *James T. and Lavinia Murray Day* commemorating the musical and family legacy of these outstanding members of the historic Rondo Avenue neighborhood in the City of Saint Paul. (Discussed after the consent agenda)
- 7. Resolution 07-673 Accepting the contribution from the Minnesota History Center to waive the rental fee for use of the 3M Auditorium in the Minnesota History Center for the Mayor's 2007 Budget Address on August 14, 2007.

  Adopted Yeas 6 Nays 0
- 8. Resolution 07-674 Amending the 2007 budget in the Department of Safety and Inspection to add staff support for the Fire Certificate of Occupancy Program.

  Adopted Yeas 6 Nays 0
- 9. Resolution 07-675 Authorizing additional spending in the Division of Parks and Recreation from the University of Minnesota to convene and facilitate a community dialogue on youth programming.

  Adopted Yeas 6 Nays 0
- 10. Resolution 07-676- Authorizing the Como Park Zoo and Conservatory Volunteer Services Department to purchase food items and to pay vendors who provide food for volunteer recognition events sponsored by the Volunteer Services Department, in an amount not to exceed \$2,500.

Adopted Yeas - 6 Nays - 0

11. Resolution – 07-677 – Authorizing the Division of Parks and Recreation to accept an anonymous donation in the amount of \$1,000 to support programs at Scheffer Recreation Center.

Adopted Yeas - 6 Nays - 0

12. Resolution – 07-678- Authorizing the Department of Fire and Safety Services to accept a donation of \$200.00 from O'Reilly Auto Parts.

Adopted Yeas - 6 Nays - 0

13. Resolution – 07-679- Authorizing the Police Department to enter into an agreement with Breaking Free to launch a "Stop the Demand" program for women and girls who fall victim to prostitution.

Adopted Yeas - 6 Nays - 0

14. Resolution – 07-680 – Authorizing the Police Department to accept a 2006 Homeland Security Grant Program which provides funding for equipment and training for bomb technicians.

Adopted Yeas - 6 Nays - 0

- 15. Resolution 07-681 Establishing a 2007 financing and spending plan in the Police Department for the Immigration and Customs Enforcement (ICE) Task Force. (Discussed after the consent agenda)
- 16. Resolution 07-682 Adopting the Summary of the Thomas-Dale (District 7) Plan as an addendum to the City's Comprehensive Plan.

Adopted Yeas - 6 Nays - 0

17. Resolution – 07-683 – Amending Council File 07-609 by deleting the assessment for property clean-up at 1657 Selby Avenue.

Adopted Yeas - 6 Nays - 0

18. Resolution – 07-684 – Approving a program in the Department of Public Works for submittal to the Metropolitan Council for review, rating, and possible New Freedom Program funding.

Adopted Yeas - 6 Nays - 0

19. Resolution – 07-685- Authorizing the Department of Public Works to accept a permanent utility easement upon Goodin Company property at 285 Como Avenue.

Adopted Yeas - 6 Nays - 0

20. Resolution Approving Assessment – 07-686 – In the matter of the assessment of benefits, cost, and expenses for repair of sanitary sewer connections from January to June 2007, and setting date of public hearing for September 5, 2007. [SWRP0702]

Adopted Yeas - 6 Nays - 0

21. Resolution Approving Assessment – 07-687 – In the matter of the assessment of benefits, cost, and expenses for the Orange/Park RSVP, and setting date of public hearing for September 5, 2007. [File No. 19025]

Adopted Yeas - 6 Nays - 0

22. Resolution Approving Assessment – 07-688 – In the matter of the assessment of benefits, cost, and expenses for replacement of lead water service lines, as requested by the property owners, from January to June, 2007, and setting date of public hearing for September 5, 2007. [0701LDSRP]

Adopted Yeas - 6 Nays - 0

- 23. Resolution Approving Assessment 07-689 In the matter of improving Fillmore Avenue from Wabasha Street to the railroad crossing, and setting date of public hearing for September 5, 2007. (Assessment for street lighting only) [File No. 18983A] Adopted Yeas 6 Nays 0
- 24. Resolution Approving Assessment 07-690 In the matter of constructing a new concrete curb and sidewalk and a new above standard twin globe lantern street lighting system on Rice Street from Front Avenue to Rose Avenue, and setting date of public hearing for September 19, 2007. [File No. 19040]

Adopted Yeas - 6 Nays - 0

25. Resolution Approving Assessment – 07-691 – In the matter of the assessment of benefits, cost, and expenses for the Hubbard/Griggs RVSP, and setting date of public hearing for October 3, 2007. [File No. 19033]

Adopted Yeas - 6 Nays - 0

26. Resolution Approving Assessment – 07-692 – In the matter of reconstruction of sidewalk with integral curb on Grand Avenue from Oxford Street to approximately 100 feet west of Oxford Street, and reconstruction of sidewalk on Oxford Street from Grand Avenue to approximately 150 feet north of Grand Avenue as requested by the property owner at 1041, 1043 and 1047 Grand Avenue (Oxford Square), and setting date of public hearing for September 19, 2007. [File No. 18976SW]

Adopted Yeas - 6 Nays - 0

6. Resolution – 07-672 – Declaring Saturday, August 4, 2007 to be *James T. and Lavinia Murray Day* commemorating the musical and family legacy of these outstanding members of the historic Rondo Avenue neighborhood in the City of Saint Paul.

Councilmember Montgomery said the Murrays are one of the "esteemed families of the old Rondo neighborhood" as well as cornerstones of the neighborhood

Councilmember Montgomery read the resolution and extended congratulations to James and Lavinia. She also introduced members of the family who were present.

Mrs. Murray said a few remarks and thanked the Council for the honor.

Councilmember Montgomery moved approval.

Adopted Yeas - 6 Nays - 0

15. Resolution – 07-681 – Establishing a 2007 financing and spending plan in the Police Department for the Immigration and Customs Enforcement (ICE) Task Force.

Council President Lantry moved to introduce an amendment to the resolution and approval

Adopted as amended Yeas - 6 Nays - 0

At this time, Council President Lantry suspended the rules in order for Craig Blakely, Department of Planning and Economic Development, to talk about contamination cleanup grants that were going to be presented by the Department of Employment and Economic Development and the Metropolitan Council. Mr. Blakely said in the early 1990s, it was inconceivable that some of the sites would be redeveloped. The Upper Landing was the City's own super fund site and all over the city are areas of significant contamination. In 1995 the State of Minnesota created the Livable Communities program. The Metropolitan Council and the Department of Employment and Economic Development have a similar program and they work together to fund contaminated cleanup sites. Since that time, the City of St. Paul and the Port Authority have secured almost \$50 million in grants.

Rick Aguilar and Kirstin Sersland Beach of the Metropolitan Council appeared. Mr. Aguilar said they were present to give money to the City of Saint Paul for some very worthy projects; four grants totaling \$655,900. The projects awarded were 430 South Robert Street in the amount of \$27,400 to help pay for soil remediation on the site that was previously used for a gas station. Plans are for retail and office building. Danny Boy's Restaurant in the amount of \$57, 700 to help pay for asbestos abatement and soil remediation at the 1.4 acre site on West 7<sup>th</sup> Street which was formerly used for commercial and residential purposes. This will be the site of a health clinic and structured parking. Hospital Linen in the amount of \$552,000 to help pay the cost of asbestos and lead-based paint abatement, soil vapor mitigation, and soil remediation on 2.6 acres. This site was originally a commercial laundry facility. Development plans call for 60 ownership housing units.

Certificates were presented to Ward 2 Councilmember Thune and Ward 7 Council President Lantry.

Ms. Beach presented an award for the Winnipeg Apartment Project in the amount of \$18,800 for 28 affordable housing units along with retail and parking to Ward 5 Councilmember Lee Helgen.

### Suspension Items:

Council President Lantry moved suspension of the rules to introduce the following resolution: Yeas - 6 Nays - 0

Resolution – 07-704 –Accepting grants from the Department of Employment and Economic Development and the Metropolitan Council for contamination cleanup grants for the Hospital Linen, Rice and Winnipeg, Carleton Place Lofts, United Family Practice, and 430 South Robert Street sites.

Council President Lantry moved approval Adopted Yeas – 6 Nays – 0

Council President Lantry moved suspension of the rules to introduce the following resolution: Yeas - 6 Nays - 0

Resolution – 07-705 – Establishing a new rate of pay of Grade 038 and changing the rate of pay for the Fire Chief classification from Grade 037 to Grade 038 of Employee Group 17, Non-Represented Employee Group.

Questions were raised pertaining to the resolution and Council President Lantry said she would have Angie Nalezny, Human Resources Director, address the issue at the 5:30 p.m. portion of the meeting. At that time, Angie Nalezny distributed a copy of the current minimum and maximum salary ranges for all the City's Department and Office directors and a market study done by the Office of Human Resources of pay for fire chiefs of similar sized populations. Ms. Nalezny reviewed it for the Council and responded to questions.

Councilmember Bostrom moved approval Adopted Yeas - 6 Nays - 0

#### FOR DISCUSSION

27. Resolution – 07-646 – Ordering the owner to remove or repair the property at 851 Conway Street within fifteen (15) days from adoption of resolution. (Laid over from July 18) (Legislative Hearing Officer's recommendation is forthcoming)

Council President Lantry moved to lay over four weeks.

Laid over to September 5 Yeas – 5 Nays – 0 (Helgen not present)

27. Resolution – 07-555 – Subordinating the City's STAR Loan to \$400,000 of additional debt for improvements to the McNally-Smith Music College. (Laid over from July 18)

Councilmember Thune moved approval.

Adopted Yeas - 6 Nays - 0

29. Consideration of the report of the Administrative Law Judge concerning all licenses held by Hmong American Partnership, 1075 Arcade Street. (Public hearing held and laid over July 18; laid over July 25)

Councilmember Bostrom moved to lay over four weeks.

Laid over to September 5 Yeas - 6 Nays - 0

#### **ORDINANCES**

- NOTE: AN ORDINANCE IS A CITY LAW ENACTED BY THE CITY COUNCIL. IT IS READ AT FOUR SEPARATE COUNCIL MEETINGS AND BECOMES EFFECTIVE AFTER PASSAGE BY THE COUNCIL AND 30 DAYS AFTER PUBLICATION IN THE SAINT PAUL LEGAL LEDGER.
- 30. Second Reading 07-671 An ordinance changing Arlington Avenue from Walsh Street to Payne Avenue from a two-way street to a one-way street.

  Laid over to August 15 for third reading/public hearing

The meeting was recessed from 3.50 p.m. - 5.30 p.m.

Present -5 Absent -2 – Benanav (excused); Harris - arrived after roll call

#### **PUBLIC HEARINGS**

- 31. Ordinance 07-548 Establishing interim zoning requirements for the Central Corridor area to implement the Development Strategy. (Amended July 11 and 18) (Note: Public hearing will be held on the amendments to the ordinance only.)
  - Donna Drummond, Department of Planning and Economic Development, gave a brief staff report. The amendments are temporary requirements for new developments in the general area of the Central Corridor on University Avenue for one year. The amendments provide an exemption for a current site plan that's being reviewed for Walgreens and Big Top Liquor stores at the Midway Shopping Center site provided that the developer agrees to put a second story on the new Walgreens. It would also allow the project to take advantage of the reduced parking requirements as well as provide an exemption for a proposed auto sales use at 670 Pelham.

Appearing in support were the following:

Paula Maccabee, 1961 Selby Avenue, representing R.K. Limited Partnership, owners of the shopping center. Ms. Maccabee said they worked with the Central Corridor Task Force throughout the process and it was their understanding, the understanding of staff, and the Task Force at the time, that any project that had applied for site plan application before the interim zoning ordinance became effective, would not be covered by the requirements...it would not be applied retroactively. As the process of the ordinance came through the City, there was a realization that that wasn't necessarily going to be the law. The City Attorney said if there were projects that were felt should be exempted because of this understanding, they could be handled individually. This project will take the Walgreens that has been trying to move out of the center of the shopping center onto Snelling where they can have a drive-through. The project was going to be a single-story building for both Walgreens and Big Top as two stories is not something Walgreens usually does, but there has been an agreement to the two-story request of Councilmember Montgomery. There will be a second story for office space in the Walgreens building and there will be a partial second story on the Big Top for office space for their business. There will be a boulevard, sidewalk, and additional landscaping as well as windows. The door to Walgreens will be on the Snelling side as well as parking. A pedestrian environment will be created on Snelling as a result of this project. Parking will be removed between Rainbow and Big Top and lanes will be put in to create a street-like pattern to encourage a home improvement store development and, hopefully, redevelopment of the bus garage site.

Benita Warns, 1440 Lafond Avenue, said she is excited about getting new stores. Both Walgreens and Big Top are in dire need of renovation and this will be good for the neighborhood. She also spoke in favor of the amendment pertaining to policy direction which talks about the area between Lexington Parkway and Marion Street and building heights. She said she wants to make sure that the adjacent properties, especially if they are much lower, do not create any new issues with detrimental shadows or blocking sunlight from yards. Also, when the various site plans are considered, a good analysis should be an important part of the consideration.

Lauri, Fritz, President, President, Midway Chamber of Commerce, spoke in favor of the Walgreens and Big Top development. She noted that when she previously spoke in favor of the ordinance, she asked the City to remain flexible, keep the market in mind, and give the businesses that have been in the shopping center as much consideration as is given for the new planning. She said this is a good example of that.

Susan Kimberly, Consultant to St. Paul Area Chamber of Commerce, said they view the interim ordinance as a compromise. There are things about it that they like and things they don't like but they feel the Council should go forward with it. She said at the last

Task Force meeting, a specific question was asked about the home improvement store and a general question was asked about other projects in the pipeline. At that time, it was staff's understanding that if they were already in the pipeline, they would be approved. There was some legal work subsequent to that which changed the interpretation somewhat and, in that light, Ms. Kimberly said they view the amendments as cleaning up the record. She said it seems the only thing that is added to the compromise is the second story on the one building and if that is the case, it is consistent with the spirit of the strategy, if not the letter, and they think that the compromise remains in tact.

Joshua Hamann, Vice President and Owner of B'Yond Automotive, and Nick Nelson appeared. Mr. Hamann said they are the second hand automotive dealership that is proposed to locate at 670 Pelham Boulevard. He showed photos of where they will be located and noted that their dealership and the surrounding area is zoned industrial. He explained what they will be doing with their property and said they look forward to the opportunity to continue their small business and believe their new location allows existing business relationships to continue to thrive and also supports their ability to create new mutually beneficial relationships in the community.

# Appearing in opposition were the following:

Randy Schubring, 594 Griggs Street, Chair of University United, a coalition of neighborhood organizations and businesses devoted to a transit and pedestrian friendly avenue, said the whole idea of the interim ordinance is to act quickly and not let developers slip past transit oriented standards allowing the City to complete plans for a permanent zoning for the Avenue. The provisions in this interim overlay have been vetted through district councils, city staff, the city's contracted urban strategies group, and the Mayor's Central Corridor Task Force. Over one year ago, University United and five district councils adjacent to the Avenue each recommended similar standards and encouraged the city to move forward without haste. Now is the time to act and let the overlay, and its provisions, take effect and not exempt the first development project out of the chute, he said.

An unidentified female speaker urged the Council to vote against the exemption saying that the whole purpose of the interim was to prevent new development that went counter to the goals of the development strategy that the task force took so long to put together and over which there was so much discussion. She said they specifically agreed to exempt the home improvement store because that application had been put in well before and was almost at the point of approval. This application arrived just five days before the interim ordinance came to the Council. One of the goals of the development strategy is to make the whole area more walkable, transit, and pedestrian friendly.

Samantha Hennington, 1693 Van Buren, said with the thorough community process that was done by the Development Task Force it would be a huge loss to the community to exempt these two businesses and it will set a precedent. By not passing it, it will show a level of commitment of the Council to the task force findings.

Catherine Zimmer, 1790 Hague Avenue, said she has a vision for the City and Midway. All the channels that the zoning overlay was passed through helped better achieve that vision. She said she is an environmental scientist and has great concerns about global warming and air pollution. Midway shopping Center is currently not pedestrian friendly. She said she was very supportive of the overlay as it was put together and she is disappointed with the amendment.

Glen McClosky, Vice President, District 13 Community Council, said they support the pedestrian friendly environment along this corridor and they think an exemption would be counter to that.

Bob Castle spoke in support.

Councilmember Montgomery moved to close the public hearing. Yeas -6 Nays -0 Laid over to August 8 for final adoption

32. Third Reading – 07-633 – An ordinance amending § 65.500 of the Legislative Code by adding a new section providing for the outdoor sales of consumer fireworks, and amending use tables in §§ 66.421 and 66.521 by adding consumer fireworks sales as a permitted use in certain districts.

Appearing in support was Bonita Warns, 1440 Lafond Avenue, who said she feels the overall product will work and will accomplish its end. She proposed amending three items: 1) Under Standards and Conditions she suggested changing the distance between the fireworks tent and any nearby structure from 20 ft. to 50 ft. 2) Under Item E, she suggested adding that the 50 ft. non-smoking area must be physically marked "no portion of any public sidewalk, boulevard right-of-way, public street, or alley may fall inside the perimeter," and 3) she suggested adding Item H to the Standards and Conditions to read: "police reserve the right to immediately close the facility if police observe anyone smoking anywhere inside the non-smoking area."

No one appeared in opposition; Councilmember Thune moved to close the public hearing Yeas - 6 Nays - 0 Laid over to August 8 for final adoption

33. Third Reading – 07-634 – An ordinance creating a new Chapter 201 which will permit the City to participate in a program that facilitates the sterilization of feral cats as a humane way of controlling the stray cat population.

Christine Rozek, Department of Safety and Inspections, said this new Chapter 201 will allow the City to participate in a program in conjunction with Animal Ark which will allow the spaying and neutering go feral cats and releasing them back into the neighborhoods.

Mike Fry, Executive Director of Animal Ark and former wildlife rehabilitation clinic coordinator at the University of Minnesota, gave a power point presentation describing this pilot program and an extensive discussion of the cats. He explained that feral cats are not domestic house cats and they are not stray cats. They are domestic animals that behave and act as wild animals. The numbers of feral cats in the United States vary from between 60 million and 100 million. In Minnesota the range is 300,000 to one million. The feral cats pose health risks for companion animals and cause serious damage to wild life. There are health risks to people including rabies.

## Appearing in opposition:

Jo Heinz, 339 Webster Street, said she is concerned about the cost of this program and using government money to fund the program.

Michael Zonic, Westminster Street, said animal owners are responsible for their pets and he does not feel sterilization adequately deals with the issues that currently exist. He said he would like the Council to try to come up with solutions that are both humane and resolve some of the current issues as well as future issues.

Laurel Browne, 734 Lexington Parkway N., said she has a concern because she lets her cat outdoors. She said she would like to see that homes are flyered or informed if this is done in a neighborhood, and how owners' cats would be dealt with.

#### Appearing in support were:

Boa Lee, District 7 Planning Council, who reiterated that it costs Animal Control about \$100 per cat to use the current system of catching them and putting them down. It will save the City money to implement the proposed program. Frogtown will be the pilot area and they would mass flyer the neighborhood so owners keep their pets indoors.

Heather Kolsara, 963 E. Como Boulevard, member of Best Friends Animal Sanctuary, noted that bestfriends.org is a Web site which shows how this program does work in big cities.

Jill Fritz, 5209 37<sup>th</sup> Avenue South, Minneapolis., Minnesota/Wisconsin State Director for The Humane Society of the United States, non-profit animal protection organization nationwide, outlined what should be done to control feral cats and said every community has a responsibility to work toward a solution.

Katie Thering, 63 Atwater St., spoke of her experience with feral cats and her success story. With the help of Animal Ark and Feline Rescue in St. Paul, she immediately got feral cats spayed and neutered and has had no problems.

Councilmember Montgomery moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Montgomery explained that this would be a public/private partnership with the city and Animal Ark. The City will have ten traps and those who want to use them will make a \$30 deposit which will be returned when the trap is returned.

Laid over to August 8 for final adoption

34. Third Reading – 07-650 – An ordinance amending interim ordinance 07-74, pursuant to Minn. Stat. § 462.355, Subd. 4 to preserve the status quo pending the completion and report of a study and possible action on the study including amending the City's zoning ordinances regulating advertising signs as they may pertain to retrofitting existing advertising signs with new "digital" or "electronic" panels by granting an exemption to the new Mississippi Creative Arts Magnet School for an electronic message center sign.

No one appeared in opposition; Councilmember Helgen moved to close the public hearing. Yeas -6 Nays -0 Laid over to August 8 for final adoption

35. Resolution – 07-693 – Approving the application of S.O.P. Inc., d/b/a The Noose, for a sound level variance in order to present amplified music, with limitations, on August 11, 2007 from 4:00 p.m. to 10:30 p.m. at 1179 East 7<sup>th</sup> Street.

Bill Gunther, Department of Safety and Inspections, appeared and said one letter was received from Mary Benton Hummel, 1199 7<sup>th</sup> Street East, stating that the variance would be a disruption. However, she added that The Noose has been a good neighbor.

No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and approval. Adopted Yeas - 6 Nays - 0

36. Resolution – 07-694 – Approving the application of Skinner's Pub for a sound level variance in order to present amplified music, with limitations, on August 11, 2007, from 12:00 noon to 10:00 p.m. at 919 Randolph Avenue.

No one appeared in opposition; Councilmember Harris Thune moved to close the public hearing and approval.

George Stahley, 903 Randolph Avenue, said he has never had a problem with events held at Skinners and that they are good neighbors.

Adopted Yeas -5 Nays -0 (Montgomery not present)

37. Resolution – 07-695 – Approving the application of SPC Enterprises Inc., d/b/a Station 4, for a sound level variance in order to present amplified music, with limitations, on August 19, 2007, from 12:00 noon to 10:00 p.m. at 201 East 4<sup>th</sup> Street.

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approval.

Adopted Yeas -4 Nays -0 (Bostrom, Montgomery not present)

38. Resolution – 07-696 – Approving the application of the Saint Paul Saints Baseball Club for a sound level variance in order to present amplified music, with limitations, on September 1, 2007 from 6:00 p.m. to 10:30 p.m. at Midway Stadium, 1771 Energy Park Drive.

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approval

Adopted Yeas - 4 Nays - 0

39. Resolution – 07-697 – Approving the petition of Net Lease Development LLC (for Walgreen's) in order to vacate part of an alley and dedicate another alley in the Maryland/Arcade block.

No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and approval

Adopted Yeas -5 Nays -0 (Bostrom not present)

(Council President Lantry called a recess at this time due to the breaking news of the I-35W Bridge collapse in Minneapolis. A moment of silence was observed after the recess.)

40. Resolution Ratifying Assessment – 07-698 – In the matter of the assessment of benefits, cost, and expenses for construction of water service connections, at the request of the property owners, in conjunction with the Baker/Bellows RSVP project. [File No. 19014CW]

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approval.

Adopted Yeas - 6 Nays - 0

41. Public hearing to consider the appeal of John J. Rogers to a decision of the Planning Commission approving the site plan and variance to develop on slopes steeper than 12% in the River Corridor at 2108 Douglynn Lane. [ZF 07-113295]

No one appeared in opposition; Council President Lantry moved to continue the public hearing to August 15 because the applicant was out of town. Laid over to August 15 for continuation of the public hearing Yeas - 7 Nays - 0

42. Public hearing to consider the application of Commonbond Communities, Commerce Partners LLC c/o United Properties, to create six (6) parcels and variances of subdivision regulations regarding boundary lines, surveyors certification, and monuments at 8 4<sup>th</sup> Street East (southeast corner at Wabasha). (Zoning File No. 07-080-8738, Commerce Building)

No one appeared in opposition; Councilmember Thune moved to close the public hearing. Yeas -6 Nays -0 (See suspension item below)

Councilmember Thune moved suspension of the rules to introduce the following resolution: Yeas-6 Nays-0

Resolution – 07-706 – Memorializing City Council action granting the application of CommonBond Communities, Commerce Partners LLC c/o United properties for a Preliminary and Final Plat by Variance in order to develop the Commerce building as a mixed use office, retail and apartment building.

Councilmember Thune moved approval. Adopted Yeas - 6 Nays - 0

43. Public hearing to consider the reports of the Administrative Law Judge concerning all licenses held by DRJ, Inc., d/b/a Diva's Overtime lounge, 1141 Rice Street. (ALJ hearings held March 21, 22, 23, April 5, and May 7, 2007)

Rachel Gunderson, Assistant City Attorney, representing the Department of Safety and Inspections/Licensing, gave a staff report. A hand-out of alleged violations was distributed from Gunderson. Ms. Gunderson reviewed the violations and said that Judge Lipman found that the first six violations were all substantiated. Ms. Gunderson said it was the request of the Department of Safety and Inspections and the City Attorney's

Office that the Council find that all seven of the violations have been proved by the City Attorney's Office and to impose adverse action.

The ninth violation is what the administrative law judge called "the unreasonable operation claim." This is a violation of St. Paul Ordinance 310.05 subd. B, paragraph 8 which Ms. Gunderson read. Ms. Gunderson said she has filed exceptions to the administrative law judge's report which all focus on the fact that it is the city attorney's position that despite the ALJ's conclusions and recommendations, that this was actually proved at the hearing. There were 43 police calls to this address in the 22 months prior to this license be obtained. Once new ownership took over, in the same span of 22 months there were 117 police calls. There is a clear indication based on the number of police reports introduced at the hearing that the current management simply cannot control its patrons and is negligent in its efforts to do so to the extent that those efforts are even genuine.

This is a second and third appearance of Diva's before the Council. The first appearance was the after-hours display of alcohol, the second appearance before the Council is the appearance before Judge Lipman with the seven violations, and the third appearance before the Council is the hearing held in front of Administrative Law Judge Close alleging failure to turn over the video and over-service of a patrol. Under the matrix, a third appearance before the Council calls for a \$2,000 fine and a ten-day suspension of all licenses. However, Ms. Gunderson said it was the recommendation of the Department of Safety and Inspections that the Council deviate upward from this penalty matrix and revoke all licenses held by Diva's Overtime Lounge. Ms. Gunderson outlined the conditions under which the Council has the power to deviate from the Matrix

Ms. Gunderson recommended that the Council adopt the Findings of Fact, Conclusions of Law, and Memorandum from Judge Close which was issued May 30, 2007. With regard to the report issued by Judge Lipman, she recommended that the Council adopt the Findings of Fact, with the exception of Nos. 18 and 28, adopt Conclusions of Law, except Nos. 4 and 5, and add to the Findings of Fact and Conclusions of Law as she proposed in the Exceptions she filed with the Council. She further asked that the Council find specifically that Violations 1 through 8 form a sufficient basis for revocation even without consideration of No. 9.

Ms. Gunderson stated that if these hearings were held separately, they would have been done with hearings held after the September violation.

Ms. Gunderson added that she feels that No. 9 has also been proved and asked that the Council find it has been proved.

This is a deviation from the penalty matrix, so if the Council follows the recommendation, specific findings need to be made with regard to why the Council is deviating from penalty matrix. She reiterated that that the penalty suggested is to revoke all licenses held by DRJ Inc., doing business as Diva's Overtime Lounge.

Ms. Gunderson said a motion has been filed on behalf of Rice Street, LLC, owned by Fred Maclus, asking to intervene in this matter because he is a property owner. There is an ordinance that says if a license is revoked for some kind of misconduct, there cannot be another liquor license at that location in the future. They had asked to intervene because this substantially affects their property interests. Mr. Maclus testified the hearing. She advised the Council to deny his motion to intervene and make a finding that Mr. Maculus was involved in the day-to-day operations of the bar, testified at the hearing, and was aware of the consequences of license revocation as he testified to at the hearing

Andy Dawkins, attorney for the licensee, referenced the memorandums he sent to the Council in support of the ALJ report dated June 28, the Judge Lipman hearing and confirmed that the City Council is in receipt of his exceptions to the report of Judge Close dated May 23, 2007. In terms of his memorandum in support of Judge Lipman, there is a typo on page 1, second paragraph. The date should read July 14, "2007" rather than "2006." He also confirmed that they were working off the amended report of Judge Litpan. He issued an initial report and then amended it. He read the paragraph that changed on page 16. Mr. Dawkins maintained that since he's been involved with the licensee, which has been over a year, Diva's has been a nuisance free bar since July 14, 2006. He said since the record closed on this case, he has continued to work with his contacts in the neighborhood to make sure that Diva's stays a nuisance-free bar. He said he checked with District 6 the previous week and was told they had received no complaints about Diva's for a long time. Upon question of Mr. Dawkins, Karen Antrim, District 6, agreed (with an affirmative head nod) that there have been no problems at Diva's since July 14, 2006.

As far as grounds for revocation, Mr. Dawkins said either it has to be allegations from before July 14, 2006 on which the ALJ found was insufficient for revocation. He pointed out that Bob Kessler, Director of the Department of Safety and Inspection, testified at the hearing "was not sufficient evidence to bring a revocation upon."

Judge Litman said there has to be more affirmative misconduct than is established by this record, Dawkins said. He cited positive things the owner has done including removing the smoking patio at the suggestion of Bob Kessler, Director of DSI, in order to be more neighborhood friendly.

There is no present danger to the public, Dawkins said. In October 2006, the Council set a new standard for taking adverse actions in cases with bars with no present danger, with

over year-old murders, with failure to turn over videos, just like the case with Diva's, which would be the matter of Arnella's Bar.

For the record, Mr. Dawkins presented the 110 page resolution that was before the Council on October 4, 2006. He said the council set a standard with Arnellia's.

The findings of fact cannot capture the demeanor of the witnesses, the intensity of the court room, the clarity that she ran a nuisance free bar since July 14, 2006. Not necessarily violation free but nuisance free. Therefore, Judge Lipman had it exactly right to say a weighty sanction perhaps, but not revocation, Dawkins said.

Mr. Dawkins said he made a note in Judge Lipman's memo, the top paragraph of page 18, that he asked the Council to look at that as part of the findings of fact. Dawkins asked the Council to put it into the findings of fact. He also requested adoption of his recommendation as the exceptions to the Judge Close ruling.

Donald Heeman, representing 1141 Rice Street, 1LLC, and 1141 Rice Street, 2LLC owners of the building, said no notice was given to his client of the ALJ hearing. He said if City Ordinance 409.03 applies to his client, there was no due process notice given to his client of that hearing. Simply being called in to testify as a witness at the hearing is not due process notice. He said his client never had an opportunity to present his own evidence. He answered questions about the bar, about him being there. His opportunity to testify at the hearing was related to the operations of the bar and had nothing to do with what would happen if the license with revoked..

The building has no other function and if the bar is taken away. Also, the building owner will have been denied due process because he never received notice of the January 10, or May 7, 2007 hearing nor did Mr. Heeman. He said the first notice they received was of this City Council hearing.

Appearing in support of the recommendation of the City Attorney's Office were:

Unidentified speaker from the District 6 Planning Council, said that they request that the City did establish by preponderance of any and all evidence that the licensee operated, maintained or permitted conditions that endangered the community. They asked that all licenses held by Diva's be revoked. She enumerated the violations of Diva's and said this business does not meet the neighborhood standards.

Kim Wilczyk, Saint Paul resident, read a statement. She said Diva's is contributing to crime and violence in the community. Concern was expressed about the nearby school and the possibility of a child getting hurt. She said Ms. Johnson, Diva's owner, is not able to maintain a safe establishment.

Fr. Mike Anderson, Pastor of St. Bernard's Church, directly across the street from Diva's, said he is a business owner, he runs a school. The moment the violence and lawlessness started to erupt, he began watching his ability to recruit students diminish and he could not guarantee parents that their kids would be safe. Diva's has a huge reputation that is hanging over the head of his business. If his business goes, Rice Street will begin to sink even further.

Steve Griffith, 1161 Marion St., asked when is enough enough and asked that Diva's be shut down. He said he and his wife cannot walk in the neighborhood because of fear.

Pattie Carlson, read a letter from a neighbor, Deborah Sandahar, regarding the problems caused in the neighborhood by Diva's.

Councilmember Helgen moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Helgen said it's time to listen to the community and say enough is enough. He noted that they are looking at the number of violations that are before the Council at this time.

Councilmember Helgen moved to adopt the Findings of Fact and Conclusions of Law from Administrative Law Judge Linda Close issued on May 30, 2007. Adopted Findings of Fact, except numbers 18 and 28 and Adopted Conclusions of Law, except numbers 4 and 5 from Administrative Law Judge Eric Lipman issued on July 9, 2007. Council further adds to the Findings of Fact and Conclusions of law issued by Judge Lipman on July 9th as proposed in the Exceptions filed by the City Attorneys office. Council revokes all licenses held by DRJ Inc., d/b/a Diva's Overtime Lounge.

Yeas - 6 Nays - 0

44. Resolution – 07-625 – Approving the decision of the Legislative Hearing Officer on appeals for property at 985 Rice Street. (Laid over from July 18) (GS3041652)

Marcia Moermond, Legislative Hearing Officer, distributed a copy of Chapter 43 of the Legislative Code which is the chapter pertaining to the vacant building program. She said this appeal is a Chapter 18 appeal meaning it's an appeal of a determination made by City staff. In this case, there are several determinations that were made by City staff that were being appealed. The first determination was whether or not this building should be a registered vacant building, whether the fees should be paid, if the Code Compliance needed to be conducted, and the Code Compliance fee paid. There was an ancillary appeal which could not be handled in the Legislative Hearing related to some orders on the porch which needed to be reconstructed. The grounds for the appeal was that the appellant felt there was not adequate notice that this should be a registered vacant building, that the TISH report did not disclose the vacant building status, that it doesn't

meet the vacant building definition, and the owner poses the concept of the vacant building program and inspectors entering the premise. Ms. Moermond recommended that the Council deny the appeal on each of the matters. She said she asked the city attorney to review this. The reasoning for her recommendation is that there was notification to the owner; a letter was sent to the owner of record per Ramsey County and an additional letter was sent to the mortgage holder when the City became aware that there was a mortgage holder. A placard was also attached to the building. With the failure of the TISH report to disclose the vacant building status, Ms. Moermond said she found that TISH reports are prepared by a private inspector who is licensed by the City and a failure in that report is not a failure by City staff to disclose the vacant building status. There are means for making a complaint on a license for failure of a private inspector.

With respect to whether or not the building met the vacant building definition itself, Ms. Moermond said staff informed her that this building should be included in the vacant building program because it has multiple code violations and was unoccupied. The argument that the appellant made in the case was that there were no pre-existing orders on the building and, therefore, there were no code violations. Staff indicated that the building had utility shutoffs and when vacant building staff went to the scene, upon referral, to determine whether or not it was vacant, they found there were additional code violations on the exterior. This, for their purposes, meant that it had multiple code violations and met Definition E. The fact that they were not written into the form of orders is, according to staff, because when there is a vacant building like this, the City's requirement is to have a complete Code Compliance inspection and that inspectors go through and establish all the things that would need to be done in order for the building to be reoccupied.

Cheryl Mikel, owner, appeared. She acknowledged the property needed work and after putting \$5,000 down, she found out it's a vacant building and she can't hire her own people to do the work. She talked about the violations and said they were not a danger.

Councilmember Helgen moved to close the public hearing Yeas - 6 Nays - 0

Councilmember Helgen said he felt this was standard vacant building policy and not extraneous circumstances.

Marcia Moermond said she was trying to work with Ms. Michael to have the principal safety violations corrected and then put her on a schedule to complete them, however, she was not interested in doing that.

Councilmember Helgen moved approval. Adopted Yeas – 6 Nays – 0 Councilmember Helgen moved to reconsider this item and re-open the public hearing Yeas - 5 Nays - 0 (Harris not present)

Nancy Lazaryan appeared said the Constitution affords due process to the citizens' rights and for people to be notified of a building being in a vacant building status. The mortgage company must be notified of the vacant building status. She said the owner's due process rights have been violated.

Councilmember Helgen moved to close the public hearing and approve the resolution. Adopted Yeas - 5 Nays - 0 (Harris not present)

45. Resolution – 07-699 – Ordering the owner to remove or repair the property at 20 Acker Street West within fifteen (15) days from adoption of resolution. (Legislative Hearing Officer's recommendation is forthcoming)

Marcia Moermond, Legislative Hearing Officer, stated that the bond has been posted and paid the back taxes have been paid. The other requirements were that that a work plan and financial plan be developed and those have not been done. She recommended that the building be removed within fifteen days with no option for rehabilitation.

Bee Vu said he purchased the property the previous week and has taken care of the proper paper work. His plan is to rehab the property within six months and said this is the type of work he does.

Councilmember Helgen moved to close the public hearing Yeas – 6 Nays – 0

Councilmember Helgen moved to lay over one week.

Public hearing held, closed, and laid over to August 8 (per the recommendation of the Legislative Hearing Officer) Yeas - 6 Nays - 0

46. Resolution – 07-700 – Ordering the owner to remove or repair the property at 1073 Earl Street within fifteen (15) days from adoption of resolution. (Legislative Hearing Officer's recommendation is forthcoming)

Marcia Moermond, Legislative Hearing Officer, said the owners have come forth with documents that indicate all of the conditions established in the Legislative Hearing have been met. Therefore, she recommended 180 days for rehabilitation of the structure.

No one appeared in opposition; Council President Lantry moved to close the public hearing and approval as amended.

Adopted as amended (Owner granted 180 days to complete rehabilitation, per the recommendation of the Legislative Hearing Officer)

$$Yeas - 6$$
  $Nays - 0$ 

47. Resolution – 07-701 – Ordering the owner to remove or repair the property at 392 Edmund Avenue within fifteen (15) days from adoption of resolution. (Legislative Hearing Officer's recommendation is forthcoming)

Marcia Moermond, Legislative Hearing Officer, recommended granting 180 days for rehabilitation of the structure.

No one appeared in opposition; Councilmember Montgomery moved to close the public hearing and approval as amended.

Adopted as amended (Owner granted 180 days to complete rehabilitation, per the recommendation of the Legislative Hearing Officer)

Yeas 
$$-5$$
 Nays  $-0$  (Helgen not present)

48. Resolution – 07-702 – Ordering the owner to remove the property at 1039 5<sup>th</sup> Street East within fifteen (15) days from adoption of resolution. (Legislative Hearing Officer recommends approval)

Marcia Moermond, Legislative Hearing Officer, requested that Council lay this item over two weeks and refer the matter back for a Legislative Hearing as the bond as been posted and are in the process of developing plans.

No one appeared in opposition; Council President Lantry moved to close the public hearing and lay over for two weeks.

Laid over to August 15 (per the recommendation of the Legislative Hearing Officer) Yeas - 6 Nays - 0

49. Resolution Ratifying Assessment – 07-703 – In the matter of the assessment of benefits, cost, and expenses for demolition of vacant buildings at 872 Simcoe Street and 646 Maryland Avenue during May 2007 [J0707C]; boarding-up vacant buildings during April 2007 [J0703B]; summary abatements (property clean-up) on private properties from April 28 to May 17, 2007 [J0708A]; and providing weekly garbage hauling services from May 1 to May 16, 2007 [J0708G]. (Legislative Hearing Officer recommends the following:

622 Bidwell Avenue (J0708A) - delete the assessment;

893 Burr Street (J0708A) - reduce the assessment from a total of \$396 to a total of \$246 and spread the payments over three (3) years;

1771 C Street (J0708A) - reduce the assessment from a total of \$598 to a total of \$299;

1369 Case Avenue (J0708A) - approve the assessment;

915 Central Avenue West (J0708A) - delete the assessment;

1084 Edgerton Street (J0708A) - approve the assessment;

478 Edmund Avenue (J0708A) - delete the assessment;

610 Edmund Avenue (J0708A) - delete the assessment;

614 Edmund Avenue (J0708A) - delete the assessment;

261 Fifth Street East (J0708A) - delete the assessment;

510-514 Hopkins Street (J0708A) - approve the assessment;

1664 Ivy Avenue East (J0708A) - delete the assessment;

501 Kent Street (J0708G) - delete the assessment;

1449 University Avenue West (J0708A) - delete the assessment;

<u>643 Winslow Avenue</u> (J0708A) - recommendation is forthcoming <u>approve the assessment</u>)

Marcia Moermond, Legislative Hearing Officer, read additional addresses into the record as follows:

#### Additional Addresses:

<u>645 Farrington Street</u> (J0708A) – referred back to the August 9 Legislative Hearing and August 15 City Council public hearings;

164 Isabel Street West (J0708A) – approve the assessment;

<u>647 Van Buren Avenue</u> (J0708A) – referred back to the August 9 Legislative Hearing and August 15 City Council public hearings

Regarding 1369 Case Avenue, Ms. Moermond said this is a cleanup that occurred. Orders were issued on April 26, 2007 for removal of carpet, refuse, debris and trash in the back and side yard. Compliance took place six days later on May 1, it was re-checked that same day and work crews were dispatched on May 15. The owner expressed confusion between his communications with Code Enforcement staff issuing the summary abatement order for the yard and the fire inspector who came and inspected the building. The owner said the fire inspector had granted an extension for cleaning up the yard as he was going out of town for five weeks. Ms. Moermond said she spoke with inspector Cummings who said he did not grant an extension. Ms. Moermond recommended approval of the assessment in the amount of \$715.00 which includes fees.

LeRoy Smithrud, owner of the property appeared. He said he received a letter from Inspector Barb Cummings. When he talked with her, she told him she was not really interested with the things in the yard but she had issues with the tenants. Mr. Smithrud told her when he returned home from vacation, he would be evicting the tenants. He told

them to pick up the yard and warned them of eviction. He maintained that he never received the orders.

Regarding 1771 C Street, Ms. Moermond said the orders were mailed on May 3, 2007 with a compliance date of May 7, and the work was done by the City on May 10. There was improperly stored refuse and tall grass and weeds. She said she reviewed the video tape and there was a substantial amount of material in the yard but it was clear that Mr. Brabeck had been in the process of doing clean up. She recommended that the owner be charged half of the assessment.

Joe Brabeck, 1771 C Street, property owner, stated that he moved from this property in January and was there every weekend preparing it for sale. In April/May he made arrangements to have the grass cut and he also cleaned up most everything with some items left by the driveway. He talked about receiving the notice on May 8 saying everything had to be cleaned up by May 7. He called and left a message saying he was in the process of cleaning up the property. He requested that the entire assessment be deleted.

Councilmember Bostrom moved to close the public hearing and approval as amended. Adopted as amended (per the recommendation of the Legislative Hearing Officer) Yeas - 5 Nays - 0 (Helgen not present)

(Councilmember Helgen left the meeting at this time)

50. Appeal of Madala Yang to a Summary Abatement Order, Vacant Building Registration Fee and Inspection Fee for property at 1016 Pacific Street. (Legislative Hearing Officer recommends denying the appeal and granting a four-month waiver on the vacant building registration fee.)

No one appeared in opposition; Councilmember Lantry moved to close the public hearing and approve the recommendation of the Legislative Hearing Officer. Appeal denied and a four-month waiver granted on the vacant building registration fee.  $Yeas-5 \qquad Nays-0$ 

51. Appeal of Laura Jelinek, SMRLS, on behalf of Cynthia Bramlett, to a Revocation of Certificate of Occupancy, which includes Condemnation, for property at 356 Jenks

Avenue. (Legislative Hearing Officer recommends denying the appeal and extending the vacate date to July 31.)

No one appeared in opposition; Councilmember Thune moved to close the public hearing and deny the appeal.

Appeal denied and vacate date extended to July 31 Yeas - 5 Nays - 0

52. Appeal of Ricardo and Mary Hernandez to a Condemnation and Order to Vacate property at <u>90 Hatch Avenue</u>. (Legislative Hearing Officer recommends denying the appeal and extending the vacate date to July 30.)

No one appeared in opposition; Councilmember Thune moved to close the public hearing and deny the appeal.

Appeal denied and vacate date extended to July 30 Yeas - 5 Nays - 0

53. Appeal of Arhondus Simmons and Mamadou Kone to a Summary Abatement Order for property at 1073-1075 Selby Avenue. (Legislative Hearing Officer recommends denying the appeal and extending the compliance date as the work had been done.)

No one appeared in opposition; Councilmember Montgomery moved to close the public hearing and deny the appeal.

Appeal denied and compliance date extended Yeas - 5 Nays - 0

54. Appeal of Steven Mark to a Summary Abatement order for property at 1719 Selby Avenue. (Legislative Hearing Officer recommends denying the appeal and extending the compliance date as the work had been done.)

No one appeared in opposition; Councilmember Montgomery moved to close the public hearing and deny the appeal.

Appeal denied and compliance date extended Yeas - 5 Nays - 0

55. Appeal of Jose Mendoza Hernandez to a Vehicle Abatement Order for property at 307 Charles Avenue.

Withdrawn

56. Appeal of Mary Lou Knipe to a Condemnation and Order to Vacate and to a Summary Abatement Order for property at 1175 Minnehaha Avenue West. (Legislative Hearing Officer's recommendation is forthcoming)

Marcia Moermond, Legislative Hearing Officer, said this matter involves an excessive accumulation and gross unsanitary house. The order for summary abatement is an effort to get the house cleaned up and close to being habitable. The owner objects to this and Ms. Moermond recommended that the Council grant the appeal. Ms. Knipe also appealed whether or not the house should be condemned and Ms. Moermond said she feels the conditions merit the condemnation. Tremendous outreach has taken place by neighbors and community organizations to help with the situation, Ms. Moermond said, and Ms. Knipe has been responding well.

No one appeared in opposition; Councilmember Montgomery moved to close the public hearing and deny the appeal on the condemnation order to vacate and grant the appeal on the summary abatement order. Yeas - 5 Nays - 0

57. Appeal of Joyce Berres, on behalf of Roger Berres, to a Vacant Building Registration Renewal for property at <u>702 Preble Street</u>. (Legislative Hearing Officer recommends denying the appeal.)

No one appeared in opposition; Councilmember Bostrom moved to close the public hearing and deny the appeal

Appeal denied Yeas - 5 Nays - 0

58. Appeal of Sarah Peterson to a Vehicle Abatement Order for property at <u>298 Avon Street North</u>. (Legislative Hearing Officer recommends denying the appeal and granting an extension on the compliance date to August 3.)

No one appeared in opposition; Councilmember Montgomery moved to close the public hearing and deny the appeal

Appeal denied and extension granted on the compliance date to August 3, 2007 Yeas - 5 Navs - 0

Appeal of Nancy Lazaryan and Victoria Marchetti to a Vacant Building Registration Notice and Vacant Building Registration Fee for property at 1033 Colne Street.
 (Legislative Hearing Officer recommends denying the appeal on the Vacant Building Registration Notice and the Vacant Building Registration Fee.)

Marcia Moermond. Legislative Hearing Officer, said the notice is being brought up as a grounds for appeal and that the truth in sale of housing report didn't indicate that it was a vacant building. It was brought up in the Legislative Hearing that the notification of the city considering vacant building status was mailed to a deceased person but Ms. Moermond said she found that the City did mail the notification to the owner of record for Ramsey County. The final thing is whether or not the assessment of the building was adequate to make a determination of whether this should be a category 2 vacant building. Ms. Moermond recommended denial of the appeal.

Nancy Lazaryan said she copied a file of documents when her daughter was told by an inspector to leave the building because it was a registered vacant building. She noted that the files indicate that in May 2006 the grass had not been cut at the house and there was debris in the garbage. There is an inspector request form where the same inspector has been to the house and noted that it was vacant and secure and that it appeared to be in fairly good condition. The inspector request form also indicated that the owner had died. That was on May 23, 2006. On May 26, 2006, the same gentlemen wrote out a notice of

vacant house registration to the dead owner, she said. That information was presented in her appeal. The file also had the returned letter saying the person was not there. Another letter went to the same person a month later. She cited the ordinance on vacant buildings and said there were no housing or building code violations written on the house and there was never any written notification of any violations.

Councilmember Thune moved to close the public hearing. Yeas - 5 Nays - 0

Steve Magner, Department of Safety and Inspections/Vacant Building Program, said this issue was before the Legislative Hearing Officer and a number of Ms. Lazaryan's points were brought up at that time. He said it was his understanding that DSI staff went to the property at 1033 Colne due to a referral from one of the office staff that the house was unoccupied and possibly a vacant building. Upon the visit, it was determined that the house was vacant and it was secured at that time. At that point, it lacked electricity. There was tall grass and weeds, which is a nuisance violation, there was some indication that the owner was deceased, and the roof needed work. At that time, staff determined to open a vacant building file. Any property that is in violation of a St. Paul City Code or a life safety hazard, which is this case would be utility shutoff and/or multiple building code violations would constitute the City to open a vacant building file and monitor the property to insure that there was not re-occupancy without compliance with the City Code whether it was for standard single family residential owner occupancy or if it needed to have a certificate of occupancy. Notices were sent to the owner of record. Standard practice is to send them out even if they know the owner is deceased as the majority of the time there is a forwarding address, DSI is notified by the post office, and records are changed accordingly. Any time there is any other action with the property or reinspection of the property, they check with the City's AMANDA system to verify whether the ownership is the same and that was done in this process. There was also an indication that there was a problem with the truth-in-housing. This was performed after the opening of this vacant building file and was initially submitted to their office that the box was not checked to identify that it was a registered vacant building. Subsequent to that it was re-sent to their office indicating that it was a registered vacant building. It is not the City's policy to release the truth-in housing upon request. If someone requests it, it would be forwarded to the evaluator or the person who hired the evaluator to do the report. The City simply licenses the truth-in-housing evaluators and the documentation kept by the City is only to identify that the document has been done. No enforcement is done off it and they don't do any other monitoring unless there is a violation or complaint.

The original truth-on housing was ordered by the deceased so whoever was selling the property was using the deceased's name as the party of record. Subsequently, that party would have had to submit the truth-in-housing to the purchaser. Standard policy for the program is to placard the buildings. Mr. Magner said it was his understanding that on

repeated visits to the property that the inspector noted that the placards were on the property.

If returned mail is received, they make copies of the returned documents and on the next visit to the property, they either tape or placard the documents to the building.

Based on the findings of the inspector, the violations, and the conditions, and enforcing the vacant building ordinance based on the intents of the Council and the Administration to maintain the existing housing stock and have the buildings in code compliance status when they're reoccupied, Mr. Magner said he feels DSI did what they were supposed to do and met the intent of the law and due process.

Councilmember Bostrom moved to close the public hearing and deny the appeal. Appeals denied Yeas-5 Nays-0

60. Appeal of John Bergstrom, on behalf of Darren Bergstrom, to a Condemnation and Order to Vacate property at 306 Sidney Street East. (Legislative Hearing Officer recommends amending the Condemnation Order to allow the house to be occupied and the garage must remain unoccupied and vacant. Continued to the October 23 Legislative Hearing.)

No one appeared in opposition; Councilmember Thune moved to close the public hearing and continue to the October 23, 2007 Legislative Hearings

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Yeas - 5 Navs - 0

Councilmember Thune moved to adjourn the meeting.

ATTEST:	ADJOURNED at 9:20 P.M.
Mary Erickson Assistant Council Secretary	Kathy Lantry, Council President
Submitted by:	October 17, 2007 Minutes approved by Council